

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1585

Citations Affected: IC 1-1-3.5-5; IC 3-10-8-4.5; IC 4-10-13-4; IC 4-15-2.5-1.1; IC 4-21.5-2-6; IC 4-22-2-37.1; IC 4-32-13-4; IC 4-33-4-12; IC 5-2-8-8; IC 5-10-5.5-1; IC 5-11-4-3.6; IC 5-14-3-2; IC 6-2.5-6-14; IC 6-8.1-7-1; IC 7.1-1-3; IC 7.1-2-2-8; IC 7.1-2-2-13; IC 7.1-3; IC 7.1-4; IC 7.1-5; IC 7.1-6-2-6; IC 7.1-6-2-8; IC 7.1-5-9-4; IC 10-1-10-16; IC 24-3-2-2; IC 34-30-2-17; IC 34-30-2-18; IC 35-41-1-17; IC 35-46-1; IC 7.1-2-4-4; IC 7.1-3-4-5; IC 7.1-3-10-12; IC 7.1-4-1; IC 7.1-4-11-3.

Synopsis: Alcohol and tobacco. Changes the name of the alcoholic beverage commission to the alcohol and tobacco commission. Provides for resolving a tie vote of the commission. Establishes experience requirements for the superintendent of law enforcement officers. Allows a permittee to give notice of an application by placing a sign on the affected property in some circumstances. Allows the commission to accept payment by credit card, money order, or electronic transfer. Allows an Internet company to obtain a salesman's permit. Prohibits the issuance of an employee's permit to certain persons convicted of operating while intoxicated. Allows express hotels to sell alcoholic beverages. Allows hotels to set different prices for alcoholic beverages served in different restaurants in the same hotel complex. Revises the fee schedule for permits. Imposes interest, a late payment penalty, and the reasonable costs of collection on a person who fails to make a timely payment of a civil penalty payable to the youth tobacco education and enforcement fund. Makes it a Class C infraction for a person to purchase tobacco for a minor. Allows certain tobacco notices to have alternative language approved by the commission. Allows the alcohol and tobacco commission to provide alternative words for notices that are required to be posted on vending machines that sell tobacco. Makes changes regarding the advertisement of tobacco products on signs or billboards. Allows a facility that operates a track that is used primarily in the sport of auto racing to allow a person to enter its establishment with alcoholic beverages. Allows a person at least 19 years of age but less than 21 years of age who has completed a server training program to serve alcoholic beverages in a dining area or family room of a restaurant or hotel in the course of the person's employment as a waiter, waitress, or server while under the supervision of a person who is at least 21 years of age, is present at the restaurant or hotel, and has completed an approved server training program. Requires the alcohol and tobacco commission to adopt rules regarding the server training program. Adds a holder of a beer wholesaler's permit to those persons required to pay the excise tax on hard cider. Allows a premises to be located within 200 feet of a church or school if the commission determines that the church or school does not object. Provides that if the commission determines the church or

school does not object, the commission's determination applies to any renewal of the permit for the premises. Allows the commission to issue a liquor retailer's permit to a social club in a municipality with a population of less than 5,000 without requiring the municipality to adopt an enabling ordinance. Makes other changes, technical corrections, and conforming amendments. (This conference committee report deletes the text of the current bill and inserts the conference committee report.)

Effective: Upon passage; July 1, 2001.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1585 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 alcohol and tobacco.
- 4 Delete everything after the enacting clause and insert the following:
- 5 SECTION 1. IC 1-1-3.5-5, AS AMENDED BY P.L.272-1999,
- 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 7 JULY 1, 2001]: Sec. 5. (a) The governor shall forward a copy of the
- 8 executive order issued under section 3 of this chapter to:
- 9 (1) the director of the Indiana state library;
- 10 (2) the election division; and
- 11 (3) the Indiana Register.
- 12 (b) The director of the Indiana state library, or an employee of the
- 13 Indiana state library designated by the director to supervise a state data
- 14 center established under IC 4-23-7.1, shall notify each state agency
- 15 using population counts as a basis for the distribution of funds or
- 16 services of the effective date of the tabulation of population or
- 17 corrected population count.
- 18 (c) The agencies that the director of the Indiana state library must
- 19 notify under subsection (b) include the following:
- 20 (1) The auditor of state, for distribution of money from the
- 21 following:
- 22 (A) The cigarette tax fund in accordance with IC 6-7-1-30.1.

(B) Excise tax revenue allocated under IC 7.1-4-7-8.

(C) The local road and street account in accordance with IC 8-14-2-4.

(D) The repayment of loans from the Indiana University permanent endowment funds under IC 21-7-4.

(2) The board of trustees of Ivy Tech State College, for the board's division of Indiana into service regions under IC 20-12-61-9.

(3) The department of commerce, for the distribution of money from the following:

(A) The rural development fund under IC 4-4-9.

(B) The growth investment program fund under IC 4-4-20.

(4) The division of disability, aging, and rehabilitative services, for establishing priorities for community residential facilities under IC 12-11-1.1 and IC 12-28-4-12.

(5) The department of state revenue, for distribution of money from the motor vehicle highway account fund under IC 8-14-1-3.

(6) The enterprise zone board, for the evaluation of enterprise zone applications under IC 4-4-6.1.

(7) The ~~Indiana alcoholic beverage~~ **alcohol and tobacco** commission, for the issuance of permits under IC 7.1.

(8) The Indiana library and historical board, for distribution of money to eligible public library districts under IC 4-23-7.1-29.

(9) The state board of accounts, for calculating the state share of salaries paid under IC 33-13-12, IC 33-14-7, and IC 33-15-26.

SECTION 2. IC 3-10-8-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4.5. Whenever the election division receives a notice under section 4 of this chapter, the election division shall notify the following offices and agencies that a special election will be conducted within all or part of Indiana:

(1) Each agency serving persons with disabilities and designated as a voter registration site under IC 3-7-16.

(2) Armed forces recruitment offices in accordance with procedures established under IC 3-7-17.

(3) Each agency designated as a voter registration site and subject to IC 3-7-18.

(4) The ~~alcoholic beverage~~ **alcohol and tobacco** commission for purposes of enforcing IC 7.1-5-10-1.

(5) The bureau of motor vehicles for voter registration purposes under IC 9-24-2.5.

(6) The adjutant general for purposes of enforcing IC 10-2-4-16.

(7) The division of family and children for voter registration purposes under IC 12-14-1.5, IC 12-14-25, and IC 12-15-1.5.

(8) The state department of health for voter registration purposes under IC 16-35-1.6.

(9) The Federal Voting Assistance Program of the United States Department of Defense, for notification of absent uniformed services voters and overseas voters.

SECTION 3. IC 4-10-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. The ~~alcoholic beverage~~ **alcohol and tobacco** commission of Indiana is hereby authorized and directed to ~~shall~~ prepare and publish each year the following report containing

the following information and data:

(1) Relative to the cigarette tax, a recital of the total amount of tax collected and the number of packages of cigarettes taxed, the total amount of refunds, the total amount of collection allowances and the total amount of administrative costs.

(2) Relative to the tax on alcoholic beverages and the imposition of license and permit fees, a recital of the number of licenses and permits, by class, issued by the commission; the total amount of license and permit fees collected; the total amount collected from any tax imposed on beer, wine and liquor; and the total amount, by volume, of alcoholic beverages taxed; the total amount of collection allowances; and the total amount of administrative costs.

Such report shall be made available for inspection as soon as it is prepared and shall be published, in the manner ~~as hereinafter provided;~~ **set forth in this chapter** by the ~~alcoholic beverage~~ **alcohol and tobacco** commission of ~~Indiana~~ not later than December 31st **31** following the end of each fiscal year.

SECTION 4. IC 4-15-2.5-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.1. The personnel system of the department of insurance, bureau of motor vehicles, department of revenue, department of natural resources, and department of adjutant general shall be conducted pursuant to this chapter, except that the division of audit of the department of revenue, the conservation officers of the department of natural resources, and the excise police of the ~~alcoholic beverage~~ **alcohol and tobacco** commission shall maintain the political balance established prior to July 1, 1971.

SECTION 5. IC 4-21.5-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. This article does not apply to the formulation, issuance, or administrative review (but does apply to the judicial review and civil enforcement) of any of the following:

(1) Determinations by the division of family and children.

(2) Determinations by the ~~Indiana alcoholic beverage~~ **alcohol and tobacco** commission.

(3) Determinations by the office of Medicaid policy and planning concerning recipients and applicants of Medicaid. However, this article does apply to determinations by the office of Medicaid policy and planning concerning providers.

SECTION 6. IC 4-22-2-37.1, AS AMENDED BY P.L.273-1999, SECTION 160, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

- 1 (4) An emergency rule adopted by the solid waste management
- 2 board under IC 13-22-2-3 and classifying a waste as hazardous.
- 3 (5) A rule, other than a rule described in subdivision (6), adopted
- 4 by the department of financial institutions under IC 24-4.5-6-107
- 5 and declared necessary to meet an emergency.
- 6 (6) A rule required under IC 24-4.5-1-106 that is adopted by the
- 7 department of financial institutions and declared necessary to meet
- 8 an emergency under IC 24-4.5-6-107.
- 9 (7) A rule adopted by the Indiana utility regulatory commission to
- 10 address an emergency under IC 8-1-2-113.
- 11 (8) An emergency rule jointly adopted by the water pollution
- 12 control board and the budget agency under IC 13-18-13-18.
- 13 (9) An emergency rule adopted by the state lottery commission
- 14 under IC 4-30-3-9.
- 15 (10) A rule adopted under IC 16-19-3-5 that the executive board of
- 16 the state department of health declares is necessary to meet an
- 17 emergency.
- 18 (11) An emergency rule adopted by the Indiana transportation
- 19 finance authority under IC 8-21-12.
- 20 (12) An emergency rule adopted by the insurance commissioner
- 21 under IC 27-1-23-7.
- 22 (13) An emergency rule adopted by the Indiana horse racing
- 23 commission under IC 4-31-3-9.
- 24 (14) An emergency rule adopted by the air pollution control board,
- 25 the solid waste management board, or the water pollution control
- 26 board under IC 13-15-4-10(4) or to comply with a deadline
- 27 required by federal law, provided:
- 28 (A) the variance procedures are included in the rules; and
- 29 (B) permits or licenses granted during the period the emergency
- 30 rule is in effect are reviewed after the emergency rule expires.
- 31 (15) An emergency rule adopted by the Indiana election
- 32 commission under IC 3-6-4.1-14.
- 33 (16) An emergency rule adopted by the department of natural
- 34 resources under IC 14-10-2-5.
- 35 (17) An emergency rule adopted by the Indiana gaming
- 36 commission under IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.
- 37 (18) An emergency rule adopted by the ~~alcoholic beverage~~ **alcohol**
- 38 **and tobacco** commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or
- 39 IC 7.1-3-20-24.4.
- 40 (19) An emergency rule adopted by the department of financial
- 41 institutions under IC 28-15-11.
- 42 (20) An emergency rule adopted by the office of the secretary of
- 43 family and social services under IC 12-8-1-12.
- 44 (21) An emergency rule adopted by the office of the children's
- 45 health insurance program under IC 12-17.6-2-11.
- 46 (b) The following do not apply to rules described in subsection (a):
- 47 (1) Sections 24 through 36 of this chapter.
- 48 (2) IC 13-14-9.
- 49 (c) After a rule described in subsection (a) has been adopted by the
- 50 agency, the agency shall submit the rule to the publisher for the
- 51 assignment of a document control number. The agency shall submit the

rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the secretary of state for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The secretary of state shall determine the number of copies of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the secretary of state shall:

(1) accept the rule for filing; and

(2) file stamp and indicate the date and time that the rule is accepted on every duplicate original copy submitted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, and IC 22-8-1.1-16.1, a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(14), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. A rule adopted under subsection (a)(14) may be extended for two (2) extension periods. Except for a rule adopted under subsection (a)(14), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(9), or (a)(13) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

⊕ (i) This section may not be used to readopt a rule under IC 4-22-2.5.

SECTION 7. IC 4-32-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The state police department shall provide the following:

(1) Assistance in obtaining criminal history information relevant to investigations required for honest, secure, exemplary operations under this article.

(2) Any other assistance requested by the commissioner and agreed

to by the superintendent of the state police department.

(b) Any other state agency, including the ~~Indiana alcoholic beverage~~ **alcohol and tobacco** commission and the professional licensing agency, shall upon request provide the commissioner with information relevant to an investigation conducted under this article.

SECTION 8. IC 4-33-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. Except as provided by IC 7.1-3-17.5, IC 7.1 and the rules adopted by the ~~alcoholic beverage~~ **alcohol and tobacco** commission apply to a person holding an owner's license.

SECTION 9. IC 5-2-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. (a) There is established the alcoholic beverage enforcement officers' training fund. The ~~alcoholic beverage~~ **alcohol and tobacco** commission shall administer the fund. The fund consists of amounts collected under IC 33-19-5-1(b)(4), IC 33-19-5-2(b)(3), and IC 33-19-5-3(b)(4) on behalf of the ~~alcoholic beverage~~ **alcohol and tobacco** commission.

(b) If the ~~alcoholic beverage~~ **alcohol and tobacco** commission files a claim under IC 33-19-8-4 or IC 33-19-8-6 against a city or town user fee fund or a county user fee fund, the fiscal officer of the city or town or the county auditor shall deposit fees collected under the cause numbers submitted by the ~~alcoholic beverage~~ **alcohol and tobacco** commission into the alcoholic beverage enforcement officers' training fund established under this section.

(c) Claims against the alcoholic beverage enforcement officers' training fund must be submitted in accordance with IC 5-11-10.

(d) Money in excess of one hundred dollars (\$100) that is unencumbered and remains in the alcoholic beverage enforcement officers' training fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of the state's fiscal year, be deposited in the law enforcement training fund established under IC 5-2-1-13(b).

SECTION 10. IC 5-10-5.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this chapter and unless the context clearly denotes otherwise:

(a) "Department" means the Indiana department of natural resources.

(b) "Commission" means the ~~Indiana alcoholic beverage~~ **alcohol and tobacco** commission.

(c) "Officer" means any Indiana state excise police officer or any Indiana state conservation enforcement officer.

(d) "Participant" means any officer who has elected to participate in the retirement plan created by this chapter.

(e) "Salary" means the total compensation, exclusive of expense allowances, paid to any officer by the department or the commission, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(f) "Average annual salary" means the average annual salary of an officer during the five (5) years of highest annual salary in the ten (10) years immediately preceding an officer's retirement date, determined without regard to any salary reduction agreement established under Section 125 of the Internal Revenue Code.

(g) "Public employees' retirement act" means IC 5-10.3.

(h) "Public employees' retirement fund" means the public employees' retirement fund created by IC 5-10.3-2.

(i) "Interest" means the same rate of interest as is specified under the public employees' retirement law.

(j) "Americans with Disabilities Act" refers to the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and any amendments and regulations related to the Act.

(k) Other words and phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them as set forth in IC 5-10.3-1.

SECTION 11. IC 5-11-4-3.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3.6. As provided in section 3 of this chapter, each of the following units of state government and eligible federal projects shall bear the direct and indirect costs of its own examination from the following designated funds:

(1) Indiana department of transportation (except toll project costs and expenses), bureau of motor vehicles (including branch offices), motor fuel tax division, state police department, and traffic safety functions under IC 9-27-2 from the motor vehicle account fund.

(2) Indiana state teachers' retirement fund from the funds accruing to that fund.

(3) ~~Alcoholic beverage~~ **Alcohol and tobacco** commission from the funds accruing to the alcoholic beverage enforcement and administration fund.

(4) Indiana department of transportation, for the costs and expenses related to a particular toll project, from any special fund established for revenues from that project.

(5) State fair commission from the state fair fund.

(6) State colleges and universities from state appropriations. However, colleges and universities shall not be charged at a rate higher than that charged to local taxing units under section 3 of this chapter.

(7) Eligible federal grants and projects from funds provided by the federal government or as are properly chargeable to the grant or project or recoverable through an indirect cost allocation recovery approved by the federal government.

SECTION 12. IC 5-14-3-2, AS AMENDED BY P.L.256-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. As used in this chapter:

"Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

"Direct cost" means one hundred five percent (105%) of the sum of the cost of:

(1) the initial development of a program, if any;

(2) the labor required to retrieve electronically stored data; and

(3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g)

of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

"Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

"Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

(1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or

(2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

"Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

"Inspect" includes the right to do the following:

(1) Manually transcribe and make notes, abstracts, or memoranda.

(2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.

(3) In the case of public records available:

(A) by enhanced access under section 3.5 of this chapter; or

(B) to a governmental entity under section 3(c)(2) of this chapter;

to examine and copy the public records by use of an electronic device.

(4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

"Investigatory record" means information compiled in the course of the investigation of a crime.

"Patient" has the meaning set out in IC 16-18-2-272(d).

"Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

"Provider" has the meaning set out in IC 16-18-2-295(a) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

"Public agency" means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the

executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the state board of tax commissioners or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the ~~alcoholic beverage~~ **alcohol and tobacco** commission, conservation officers of the department of natural resources, and the security division of the state lottery commission.

(7) Any license branch staffed by employees of the bureau of motor vehicles commission under IC 9-16.

(8) The state lottery commission, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

"Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, used, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

"Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

"Trade secret" has the meaning set forth in IC 24-2-3-2.

"Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation and includes the attorney's:

(1) notes and statements taken during interviews of prospective witnesses; and

(2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under

1 section 4 of this chapter.

2 SECTION 13. IC 6-2.5-6-14, AS AMENDED BY HEA 1813-2001,
3 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2001]: Sec. 14. (a) The department shall compile a list
5 annually of retail merchants that sell tobacco products that includes the
6 following information:

7 (1) On a county by county basis, the name and business address for
8 each location at which the retail merchant sells tobacco products.

9 (2) The name and business address of each new retail merchant
10 since the previous report.

11 (3) The name and business address of each retail merchant that no
12 longer sells tobacco products since the previous report.

13 The department shall deliver the list prepared under this section to the
14 division of mental health and addiction and the ~~alcoholic beverage~~
15 **alcohol and tobacco** commission.

16 (b) A retail merchant that sells tobacco products must provide the
17 information required by the department under this section.

18 (c) The department shall prescribe the form, or modify an existing
19 form, to collect the information required by this section.

20 SECTION 14. IC 6-8.1-7-1, AS AMENDED BY HEA 1813-2001,
21 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2001]: Sec. 1. (a) This subsection does not apply to the
23 disclosure of information concerning a conviction on a tax evasion
24 charge. Unless in accordance with a judicial order or as otherwise
25 provided in this chapter, the department, its employees, former
26 employees, counsel, agents, or any other person may not divulge the
27 amount of tax paid by any taxpayer, terms of a settlement agreement
28 executed between a taxpayer and the department, investigation records,
29 investigation reports, or any other information disclosed by the reports
30 filed under the provisions of the law relating to any of the listed taxes,
31 including required information derived from a federal return, except to:

32 (1) members and employees of the department;

33 (2) the governor;

34 (3) the attorney general or any other legal representative of the
35 state in any action in respect to the amount of tax due under the
36 provisions of the law relating to any of the listed taxes; or

37 (4) any authorized officers of the United States;

38 when it is agreed that the information is to be confidential and to be
39 used solely for official purposes.

40 (b) The information described in subsection (a) may be revealed
41 upon the receipt of a certified request of any designated officer of the
42 state tax department of any other state, district, territory, or possession
43 of the United States when:

44 (1) the state, district, territory, or possession permits the exchange
45 of like information with the taxing officials of the state; and

46 (2) it is agreed that the information is to be confidential and to be
47 used solely for tax collection purposes.

48 (c) The information described in subsection (a) relating to a person
49 on public welfare or a person who has made application for public
50 welfare may be revealed to the director of the division of family and
51 children, and to any county director of family and children located in

1 Indiana, upon receipt of a written request from either director for the
 2 information. The information shall be treated as confidential by the
 3 directors. In addition, the information described in subsection (a)
 4 relating to a person who has been designated as an absent parent by the
 5 state Title IV-D agency shall be made available to the state Title IV-D
 6 agency upon request. The information shall be subject to the
 7 information safeguarding provisions of the state and federal Title IV-D
 8 programs.

9 (d) The name, address, Social Security number, and place of
 10 employment relating to any individual who is delinquent in paying
 11 educational loans owed to an institution of higher education may be
 12 revealed to that institution if it provides proof to the department that the
 13 individual is delinquent in paying for educational loans. This
 14 information shall be provided free of charge to approved institutions of
 15 higher learning (as defined by IC 20-12-21-3(2)). The department shall
 16 establish fees that all other institutions must pay to the department to
 17 obtain information under this subsection. However, these fees may not
 18 exceed the department's administrative costs in providing the
 19 information to the institution.

20 (e) The information described in subsection (a) relating to reports
 21 submitted under IC 6-6-1.1-502 concerning the number of gallons of
 22 gasoline sold by a distributor, and IC 6-6-2.5 concerning the number of
 23 gallons of special fuel sold by a supplier and the number of gallons of
 24 special fuel exported by a licensed exporter or imported by a licensed
 25 transporter may be released by the commissioner upon receipt of a
 26 written request for the information.

27 (f) The information described in subsection (a) may be revealed upon
 28 the receipt of a written request from the administrative head of a state
 29 agency of Indiana when:

- 30 (1) the state agency shows an official need for the information; and
- 31 (2) the administrative head of the state agency agrees that any
- 32 information released will be kept confidential and will be used
- 33 solely for official purposes.

34 (g) The name and address of retail merchants, including township, as
 35 specified in IC 6-2.5-8-1(h) may be released solely for tax collection
 36 purposes to township assessors.

37 (h) The department shall notify the appropriate innkeepers' tax board,
 38 bureau, or commission that a taxpayer is delinquent in remitting
 39 innkeepers' taxes under IC 6-9.

40 (i) All information relating to the delinquency or evasion of the motor
 41 vehicle excise tax shall be disclosed to the bureau of motor vehicles in
 42 Indiana and may be disclosed to another state, if the information is
 43 disclosed for the purpose of the enforcement and collection of the taxes
 44 imposed by IC 6-6-5.

45 (j) All information relating to the delinquency or evasion of
 46 commercial vehicle excise taxes payable to the bureau of motor
 47 vehicles in Indiana must be disclosed to the bureau and may be
 48 disclosed to another state, if the information is disclosed for the
 49 purpose of the enforcement and collection of the taxes imposed by
 50 IC 6-6-5.5.

51 (k) All information relating to the delinquency or evasion of

commercial vehicle excise taxes payable under the International Registration Plan may be disclosed to another state, if the information is disclosed for the purpose of the enforcement and collection of the taxes imposed by IC 6-6-5.5.

(l) This section does not apply to:

- (1) the beer excise tax (IC 7.1-4-2);
- (2) the liquor excise tax (IC 7.1-4-3);
- (3) the wine excise tax (IC 7.1-4-4);
- (4) the hard cider excise tax (IC 7.1-4-4.5);
- (5) the malt excise tax (IC 7.1-4-5);
- (6) the motor vehicle excise tax (IC 6-6-5);
- (7) the commercial vehicle excise tax (IC 6-6-5.5); and
- (8) the fees under IC 13-23.

(m) The name and business address of retail merchants within each county that sell tobacco products may be released to the division of mental health and addiction and the ~~alcoholic beverage~~ **alcohol and tobacco** commission solely for the purpose of the list prepared under IC 6-2.5-6-14.

SECTION 15. IC 7.1-1-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. ~~Commission~~. The term "commission" means the ~~Indiana alcoholic beverage~~ **alcohol and tobacco** commission created by this title.

SECTION 16. IC 7.1-1-3-13.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13.5. "Conviction for operating while intoxicated" means a conviction (as defined in IC 9-13-2-38):

(1) in Indiana for:

- (A) an alcohol related or drug related crime under Acts 1939, c.48, s.52, as amended, IC 9-4-1-54 (repealed September 1, 1983), IC 9-11-2 (repealed July 1, 1991), or IC 14-1-5 (repealed July 1, 1995); or
- (B) a crime under IC 9-30-5-1 through IC 9-30-5-9 or IC 14-15-8; or

(2) in any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a crime described in IC 9-30-5-1 through IC 9-30-5-9 or IC 14-15-8.

SECTION 17. IC 7.1-1-3-19.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19.5. "Internet company" means a person that:

- (1) has the permits required under this title for the person to conduct business in Indiana;
- (2) does business in more than one (1) state or country; and
- (3) solicits orders for the sale of alcoholic beverages to a person in Indiana through the Internet.

SECTION 18. IC 7.1-2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. ~~Commission Created~~. There is hereby created as a part of state government, a commission to be known as the ~~"Indiana alcoholic beverage~~ **alcohol and tobacco** commission.

1 SECTION 19. IC 7.1-2-1-11 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. ~~Quorum and~~
 3 ~~Voting.~~ (a) Three (3) members of the commission ~~shall~~ constitute a
 4 quorum for the transaction of business.

5 (b) Each commissioner ~~shall have~~ **has** one (1) vote.

6 (c) Action of the commission may be taken only upon the affirmative
 7 votes of at least two (2) commissioners. **If a vote of the commission**
 8 **is a tie, the position for which the chairman voted shall be treated**
 9 **as the position adopted by the commission.**

10 SECTION 20. IC 7.1-2-2-8 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. ~~Enforcement~~
 12 ~~Officers. Appointments.~~ (a) The commission ~~shall have the authority~~
 13 ~~to may~~ employ qualified individuals to serve as enforcement officers
 14 of the commission.

15 (b) Enforcement officers shall be employed so that not more than
 16 one-half (1/2) the number of enforcement officers are members of the
 17 same political party.

18 (c) **The superintendent of the enforcement officers must have had**
 19 **at least ten (10) years experience as an active law enforcement**
 20 **officer, at least five (5) years of which must have been in a**
 21 **management capacity.**

22 (d) The commission shall issue to an enforcement officer a certificate
 23 of employment under the seal of the commission. The courts of this
 24 state shall take judicial notice of a certificate of employment.

25 SECTION 21. IC 7.1-2-2-13, AS ADDED BY P.L.1-1999, SECTION
 26 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 27 2001]: Sec. 13. (a) The ~~alcoholic beverage~~ **alcohol and tobacco**
 28 commission shall categorize salaries of enforcement officers within
 29 each rank based upon the rank held and the number of years of service
 30 in the commission through the tenth year. The salary ranges that the
 31 board assigns to each rank shall be divided into a base salary and ten
 32 (10) increments above the base salary with:

- 33 (1) the base salary in the rank paid to a person with less than one
- 34 (1) year of service in the commission; and
- 35 (2) the highest salary in the rank paid to a person with at least ten
- 36 (10) years of service in the commission.

37 (b) For purposes of creating the salary matrix prescribed by this
 38 section, the ~~alcoholic beverage~~ **alcohol and tobacco** commission may
 39 not approve salary ranges for any rank that are less than the salary
 40 ranges effective for that rank on January 1, 1995.

41 (c) The salary matrix prescribed by this section shall be reviewed and
 42 approved by the budget agency before implementation.

43 (d) The money needed to fund the salaries resulting from the matrix
 44 prescribed by this section shall come from the ~~amounts appropriated~~
 45 ~~from the professional and technical equity fund as augmented by the~~
 46 ~~budget agency from the state general fund.~~

47 (e) **The salary matrix prescribed by this section must have parity**
 48 **with the salary matrix prescribed by the natural resources**
 49 **commission under IC 14-9-8 for conservation officers of the**
 50 **department of natural resources. The budget agency shall approve**
 51 **a salary matrix that meets the parity requirement of this**

1 **subsection.**

2 SECTION 22. IC 7.1-3-1-4 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. ~~Applications for~~
 4 ~~Permits: General:~~ The commission shall issue a permit authorized by
 5 this title only upon proper application. The application shall be in
 6 writing, and verified, upon forms prescribed and furnished by the
 7 commission. The application shall contain the terms and information
 8 required by this title or by the rules and regulations of the commission.
 9 ~~The appropriate annual license fee for each of the particular type of~~
 10 ~~permit applied for shall be submitted in cash with the application.~~ The
 11 appropriate surety bond, if one is required, also shall be submitted with
 12 the application.

13 SECTION 23. IC 7.1-3-1-5.5 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5.5. (a) This section
 15 applies only in a county having a consolidated city.

16 (b) As used in this section, "contiguous property owner" refers to a
 17 property owner who has real property that is geographically adjacent
 18 to or in contact with any point on the border of the property of a person
 19 who seeks a permit to sell alcoholic beverages for consumption on the
 20 licensed premises.

21 (c) As used in this section, "neighboring property owner" means:

22 (1) a contiguous property owner; or

23 (2) a property owner who has real property that:

24 (A) is geographically adjacent to or in contact with any point on
 25 the border of the property of a contiguous property owner; and

26 (B) some portion of which is within five hundred (500) feet of
 27 the property of a person who seeks a permit to sell alcoholic
 28 beverages for consumption on the licensed premises.

29 (d) As used in this section, "principal owner" means any person or
 30 entity holding at least a fifteen percent (15%) interest in the business
 31 for which a permit is sought to sell alcoholic beverages.

32 (e) As used in this section, "property owner" means any person
 33 whose name and address appears in the county assessor's real property
 34 tax assessment records as a person responsible for the payment of
 35 property taxes on a parcel of real property.

36 (f) **Except as provided in section 28(d) of this chapter, subsection**
 37 **(g) applies to a location in the consolidated city only if:**

38 **(1) the application is for a liquor dealer's permit for a location**
 39 **within the boundaries of the special fire service district, as**
 40 **determined in conformity with IC 7.1-3-22-8; or**

41 **(2) the local alcoholic beverage board requires the applicant to**
 42 **comply with subsection (g).**

43 **(g)** In addition to the notice required by section 5 of this chapter, the
 44 applicant for a new permit, or a transfer of a permit to sell alcoholic
 45 beverages of any type or at any location must, at least fifteen (15) days
 46 before the date of the local alcoholic beverage board hearing, mail
 47 notice of the hearing at the applicant's expense to the following:

48 (1) Each neighboring property owner.

49 (2) The department of metropolitan development of the
 50 consolidated city.

51 (3) The following entities that have registered with the department

of metropolitan development of the consolidated city:

(A) The principal, headmaster, or other primary administrator of each public, private, or parochial elementary or secondary school located less than one thousand (1,000) feet from the property line of the applicant's property.

(B) Each church that is located less than one thousand (1,000) feet from the property line of the applicant's property.

(C) Each neighborhood association that represents the area in which the applicant's property is located.

~~(g)~~ **(h)** The notice that the applicant mails must provide the following information:

(1) The name and address of the applicant, or if the applicant is a corporation, a club, an association, or an organization, the name and address of the applicant's president, secretary, and principal owners who will be responsible to the public for the sale of alcoholic beverages.

(2) A statement that the applicant has filed an application with the ~~alcoholic beverage~~ **alcohol and tobacco** commission for the sale of alcoholic beverages.

(3) The specific address where alcoholic beverages are asked to be sold.

(4) The type of alcoholic beverage permit applied for.

(5) The date, time, and location of the public hearing before the local alcoholic beverage board regarding the application.

(6) That if there is a desire to remonstrate against the application, the recipient of the notice may attend this public hearing.

~~(h)~~ **(i)** The applicant shall furnish evidence of the applicant's compliance with this section by filing an affidavit with the local alcoholic beverage board at the public hearing on the application. The affidavit must list the names and addresses of the ~~property owners~~ **individuals or other entities to whom** ~~which~~ notice was mailed by the applicant.

~~(i)~~ **(j)** In addition to the information required by subsection ~~(h)~~; **(i)**, the applicant shall file with the local alcoholic beverage board at the public hearing the following information:

(1) Verification from the department of metropolitan development of the consolidated city that the applicant is in compliance with zoning requirements for the premises to be licensed.

(2) Verification from the department of state revenue that the applicant does not have any outstanding income tax, excise tax, or sales tax liabilities.

(3) Verification from the county treasurer that the applicant does not have any outstanding property tax liability.

~~(j)~~ **(k)** Subsection ~~(i)~~ **(j)** ~~(1)~~ does not apply to a permit holder that received and held a permit before September 1, 1987.

~~(k)~~ **(l)** Notwithstanding subsection ~~(j)~~; **(f)** ~~(1)~~, an applicant seeking a transfer of a permit from a permit holder to a new permit holder when the new permit holder does not intend to change the nature of the business operated under the permit may apply to the local board for a waiver of the notice requirement **in subsection (g)**. The local board may consider any information the local board considers relevant in

1 making a determination to approve or deny the waiver request. The
 2 local board must approve or deny a waiver request at the first regularly
 3 scheduled meeting that occurs at least fifteen (15) days after the local
 4 board receives the waiver request from the applicant.

5 SECTION 24. IC 7.1-3-1-5.6 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5.6. (a) This section
 7 applies only in a county having a consolidated city.

8 (b) This section applies only to an application for the renewal of a
 9 permit to sell alcoholic beverages.

10 (c) The definitions set forth in section 5.5 of this chapter apply to this
 11 section.

12 (d) The renewal of a permit is subject to IC 7.1-3-19-9.5.

13 (e) **Except as provided in section 28(d) of this chapter,**
 14 **subsections (f) and (g) apply to a location in the consolidated city**
 15 **only if the application is for a liquor dealer's permit.**

16 (f) Notwithstanding subsection (d), if:

17 (1) an applicant has been cited for a violation of law or a rule of the
 18 commission; or

19 (2) the local alcoholic beverage board has received at least five (5)
 20 written complaints against the applicant alleging a violation of law
 21 or a rule of the commission;

22 then upon direction of the local board, the applicant shall, at least
 23 fifteen (15) days before the date of the local alcoholic beverage board
 24 hearing, mail notice of the hearing at the applicant's expense as
 25 provided in subsection ~~(f)~~ (g).

26 ~~(f)~~ (g) The applicant shall mail the notice required under subsection
 27 ~~(e)~~ (f) to the following:

28 (1) Each neighboring property owner.

29 (2) The department of metropolitan development of the
 30 consolidated city.

31 (3) The following entities that have registered with the department
 32 of metropolitan development of the consolidated city:

33 (A) The principal, headmaster, or other primary administrator of
 34 each public, private, or parochial elementary or secondary school
 35 located less than one thousand (1,000) feet from the property line
 36 of the applicant's property.

37 (B) Each church that is located less than one thousand (1,000)
 38 feet from the property line of the applicant's property.

39 (C) Each neighborhood association that represents the area in
 40 which the applicant's property is located.

41 ~~(g)~~ (h) The notice that the applicant mails must provide the following
 42 information:

43 (1) The name and address of the applicant, or if the applicant is a
 44 corporation, a club, an association, or an organization, the name
 45 and address of the applicant's president, secretary, and principal
 46 owners who will be responsible to the public for the sale of
 47 alcoholic beverages.

48 (2) A statement that the applicant has filed an application with the
 49 ~~alcoholic beverage~~ **alcohol and tobacco** commission for the sale
 50 of alcoholic beverages.

51 (3) The specific address where alcoholic beverages are asked to be

1 sold.

2 (4) The type of alcoholic beverage permit applied for.

3 (5) The date, time, and location of the public hearing before the
4 local alcoholic beverage board regarding the application.

5 (6) That if there is a desire to remonstrate against the application,
6 the recipient of the notice may attend this public hearing.

7 ~~(h)~~ (i) The applicant shall furnish evidence of the applicant's
8 compliance with this section by filing an affidavit with the local
9 alcoholic beverage board at the public hearing on the application. The
10 affidavit must list the names and addresses of the persons to whom
11 notice was mailed by the applicant.

12 ~~(i)~~ (j) In addition to the information required by subsection ~~(h)~~; (i),
13 the applicant shall file with the local alcoholic beverage board at the
14 public hearing the following information:

15 (1) Verification from the department of metropolitan development
16 of the consolidated city that the applicant is in compliance with
17 zoning requirements for the premises to be licensed.

18 (2) Verification from the department of state revenue that the
19 applicant does not have any outstanding income tax, excise tax, or
20 sales tax liabilities.

21 (3) Verification from the county treasurer that the applicant does
22 not have any outstanding property tax liability.

23 ~~(j)~~ (k) Subsection ~~(i)~~~~(j)~~ (1) does not apply to a permit holder that
24 received and held a permit before September 1, 1987.

25 SECTION 25. IC 7.1-3-1-13, AS AMENDED BY P.L.205-1999,
26 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2001]: Sec. 13. **A person may make a payment to the
28 commission:**

29 **(1) in cash;**

30 **(2) by a valid postal money order of the United States; ~~or by one~~**
31 **~~(1) of the following:~~**

32 **~~(1)~~ (3) by certified check;**

33 **~~(2)~~ (4) by cashier's check;**

34 **~~(3)~~ (5) by check drawn on the bank deposit of a business; ~~or~~**

35 **~~(4)~~ (6) by bank draft;**

36 **(7) by money order;**

37 **(8) by credit card, debit card, charge card, or similar method;**
38 **or**

39 **(9) if approved by the commission, by an electronic funds**
40 **transfer (as defined in IC 4-8.1-2-7).**

41 **may be made in lieu of a cash payment whenever a sum is required to**
42 **be paid in cash under the provisions of this title. However, payment**
43 **made by one (1) of the methods listed in subdivisions ~~(1)~~ (3) through**
44 **~~(4)~~ (6) must be of or drawn upon a solvent bank or trust company.**
45 **However, if a payment is made by bank draft, check, cashier's**
46 **check, or money order, the liability is not finally discharged and**
47 **the person has not paid the obligation until the draft, check, or**
48 **money order has been honored by the institution on which it is**
49 **drawn. If the payment is made by credit card, debit card, charge**
50 **card, or similar method, the liability is not finally discharged and**
51 **the person has not paid the liability until the commission receives**

1 payment or credit from the institution responsible for making the
 2 payment or credit. The commission may contract with a bank or
 3 credit card vendor for acceptance of bank or credit cards.
 4 However, if there is a vendor transaction charge or discount fee,
 5 whether billed to the commission or charged directly to the
 6 commission's account, the commission or credit card vendor may
 7 collect from the person using the bank or credit card a fee. The fee
 8 is a permitted additional charge under IC 24-4.5-3-202.

9 SECTION 26. IC 7.1-3-1-28 IS ADDED TO THE INDIANA CODE
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 11 1, 2001]: Sec. 28. (a) This section applies to the initial issuance,
 12 transfer of location, or transfer of ownership of the following:

13 (1) Any form of retailer's permit issued under this title.

14 (2) Any form of dealer's permit issued under this title.

15 (b) To qualify for approval of an application, an applicant must
 16 show proof to the commission that the applicant has provided
 17 notice concerning the application in conformity with this section.

18 (c) Except as provided in subsection (d), the applicant shall post
 19 a sign for the period, in the location, and in the form specified in
 20 the rules adopted by the commission to indicate to the public that
 21 the applicant is seeking the issuance of a retailer's or dealer's
 22 permit. The rules adopted by the commission must require that:

23 (1) the wording on the sign be in a sufficiently large type size;
 24 and

25 (2) the sign be posted in a sufficient manner in a window or
 26 another area;

27 so that the sign is visible from the largest public thoroughfare or
 28 the nearest public thoroughfare in the vicinity of the applicant's
 29 location. The commission may require an applicant to use a sign
 30 prepared by the commission. The commission may charge a fee for
 31 a sign prepared by the commission that does not exceed the cost of
 32 the sign.

33 (d) This subsection applies to a county having a consolidated city.
 34 If the application is for a permit other than a liquor dealer's
 35 permit, the applicant may:

36 (1) post notice of the application as set forth in subsection (c);
 37 or

38 (2) mail notice in accordance with:

39 (A) section 5.5 of this chapter if the application is for a new
 40 permit or transfer of a permit; or

41 (B) section 5.6 of this chapter if the application is for renewal
 42 of a permit.

43 SECTION 27. IC 7.1-3-5-3 IS AMENDED TO READ AS
 44 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. ~~Scope of Permit.~~ (a)
 45 The holder of a beer dealer's permit shall be entitled to purchase beer
 46 for sale under ~~his~~ the permit only from a permittee entitled to sell to
 47 ~~him~~ a beer dealer under this title.

48 (b) A beer dealer shall be entitled to possess beer and sell it at retail
 49 to a customer in permissible containers only.

50 (c) A beer dealer may not sell beer by the drink nor for consumption
 51 on the licensed premises nor shall ~~he~~ a beer dealer allow it to be

consumed on the licensed premises.

(d) **Except as provided in subsection (e), a beer dealer shall be entitled to sell beer to a customer and deliver it in permissible containers to the customer on the licensed premises, or to the customer's ~~house~~ residence or office. He A beer dealer** shall not be entitled to sell and deliver beer on the street or at the curb outside the licensed premises, nor shall ~~he a beer dealer~~ be entitled to sell beer at a place other than the licensed premises. A beer dealer shall not be entitled to sell beer and deliver beer for carry-out, or for ~~at-home~~ delivery **to a customer's residence or office**, in a quantity that exceeds eight hundred sixty-four (864) ounces ~~at any one (1) time. in a single transaction.~~ However, notwithstanding IC 7.1-5-10-11, a beer dealer who is licensed pursuant to IC 7.1-3-10-4 shall be entitled to sell and deliver warm or cold beer for carry-out, or for ~~at-home~~ delivery **to a customer's residence, office, or a designated location** in barrels or other commercial containers ~~in a quantity that does do not exceed two thousand sixteen (2,016) ounces at any one (1) time. per container.~~ **This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.**

(e) Unless a beer dealer is a grocery store or drug store, a beer dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. A beer dealer that is a grocery store or drug store may sell any item except alcoholic beverages through a window in the licensed premises to a patron who is outside the licensed premises.

SECTION 28. IC 7.1-3-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) The holder of a liquor dealer's permit shall be entitled to purchase liquor only from a permittee entitled to sell to ~~him~~ **a liquor dealer** under this title.

(b) A liquor dealer shall be entitled to possess liquor and sell it at retail in its original package to a customer only for consumption off the licensed premises.

(c) A liquor dealer may deliver liquor only in permissible containers to a customer's residence or office in a quantity that does not exceed twelve (12) quarts at any one (1) time. **However, a liquor dealer who is licensed under IC 7.1-3-10-4 may deliver liquor in permissible containers to a customer's residence, office, or designated location. This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.**

(d) A liquor dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. However, a liquor dealer that is a drug store may sell prescription drugs and health and beauty aids through a window in the licensed premises to a patron who is outside the licensed premises.

SECTION 29. IC 7.1-3-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) The holder of a wine dealer's permit shall be entitled to purchase wine only from a permittee who is authorized to sell to ~~him~~ **a wine dealer** under this title. ~~He~~ **A wine dealer** shall be entitled to sell wine for consumption off the licensed premises only and not by the drink.

(b) A wine dealer shall be entitled to sell wine in permissible containers in a quantity of not more than ~~twelve (12) quarts, at any one (1) time;~~ **three (3) standard cases, as determined under the rules of the commission, in a single transaction. However, a wine dealer who is licensed under IC 7.1-3-10-4 may possess wine and sell it at retail in its original package to a customer only for consumption off the licensed premises.**

(c) Unless a wine dealer is a grocery store or drug store, a wine dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. A wine dealer that is a grocery store or drug store may sell any item except alcoholic beverages through a window in the licensed premises to a person who is outside the licensed premises.

(d) **However, a wine dealer who is licensed under IC 7.1-3-10-4 may deliver wine only in permissible containers to a customer's residence, office, or designated location in a quantity that does not exceed three (3) standard cases, as determined under the rules of the commission. This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.**

SECTION 30. IC 7.1-3-18-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. ~~Salepersons' Permits. Scope:~~ (a) The holder of a salesman's permit ~~shall~~ **is not be** entitled to represent a person whose name does not appear on the permit as ~~his~~ **the permittee's** employer, if employed by another, nor may ~~he~~ **the permittee** act for any other person not named in the permit.

(b) ~~A Subject to subsection (c),~~ a permittee ~~shall~~ **is not be** entitled to act as a salesman for more than one (1) person under one (1) permit. However, the commission may issue additional permits to the salesman for additional principals.

(c) **A permittee may act as a salesman for more than one (1) person under one (1) permit if:**

(1) the permittee is an Internet company; and

(2) the Internet company provides the commission with the names of each permittee for whom the Internet company is a salesman in conformity with the rules adopted by the commission.

SECTION 31. IC 7.1-3-18-9, AS AMENDED BY P.L.125-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9. (a) The commission may issue an employee's permit to a person who desires to act as a clerk in a package liquor store or as a bartender, waiter, waitress, or manager in a retail

establishment, excepting dining car and boat employees.

(b) A permit authorized by this section is conditioned upon the compliance by the holder with reasonable rules relating to the permit which the commission may prescribe from time to time.

(c) A permit issued under this section entitles its holder to work for any lawful employer. However, a person may work without an employee's permit for thirty (30) days from the date shown on a receipt for a cashier's check or money order payable to the commission for that person's employee's permit application.

(d) A person who, for a package liquor store or retail establishment, is:

- (1) the sole proprietor;
- (2) a partner, a general partner, or a limited partner in a partnership or limited partnership that owns the business establishment;
- (3) a member of a limited liability company that owns the business establishment; or
- (4) a stockholder in a corporation that owns the business establishment;

is not required to obtain an employee's permit in order to perform any of the acts listed in subsection (a).

(e) An applicant may declare on the application form that the applicant will use the employee's permit only to perform volunteer service that benefits a nonprofit organization. It is unlawful for an applicant who makes a declaration under this subsection to use an employee's permit for any purpose other than to perform volunteer service that benefits a nonprofit organization.

(f) An applicant is not entitled to an employee's permit if:

- (1) the applicant is serving a sentence for a conviction for operating while intoxicated, including any term of probation or parole;**
- (2) the applicant has more than one (1) but less than three (3) unrelated convictions for operating while intoxicated and less than two (2) years have elapsed after the applicant completed the applicant's sentence for a conviction for operating while intoxicated, including any term of probation or parole; or**
- (3) the applicant has at least three (3) unrelated convictions for operating while intoxicated.**

(g) The commission shall revoke a permit issued to an employee under this section if:

- (1) the employee is convicted of a Class B misdemeanor for violating IC 7.1-5-10-15(a); or**
- (2) the employee becomes ineligible for the issuance of an employee's permit under subsection (f).**

The commission may revoke a permit issued to an employee under this section for any violation of this title or the rules adopted by the commission.

SECTION 32. IC 7.1-3-20-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. ~~Clubs: Enabling Ordinance Required.~~ The commission shall require the enactment of an enabling ordinance as provided in IC 1971, 7.1-3-9, before issuing a new liquor retailer's permit to a club in a city or town that has a

population of less than five thousand (5,000). This section shall not apply to the renewal of an existing permit nor shall it apply to a fraternal club **or a social club.**

SECTION 33. IC 7.1-3-20-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8.5. (a) As used in this section, "discriminatory practice" means a refusal to provide equal access to and use of services or facilities on the basis of a person's race or color. However, the term does not include a practice of a club or fraternal club that requires a specific religious affiliation or belief as a condition of membership in the club or fraternal club.

(b) To be eligible to hold a club permit under this chapter, a club, fraternal club, or labor organization may not engage in a discriminatory practice.

(c) A person may file a complaint with the civil rights commission alleging a discriminatory practice by a club, fraternal club, or labor organization.

(d) The civil rights commission shall investigate the allegations in the complaint and, if reasonable cause is found, shall hold a hearing under IC 22-9-1-6 on the complaint. If the civil rights commission finds that a club, fraternal club, or labor organization has engaged in a discriminatory practice, the civil rights commission shall certify the finding to the ~~alcoholic beverage~~ **alcohol and tobacco** commission.

(e) If a club, fraternal club, or labor organization is found to have engaged in a discriminatory practice, the ~~alcoholic beverage~~ commission shall do one (1) or more of the following:

- (1) Issue a warning to the club, fraternal club, or labor organization.
- (2) Impose a civil penalty on the club, fraternal club, or labor organization not to exceed one thousand dollars (\$1,000).
- (3) Suspend the club, fraternal club, or labor organization's permit for not more than ninety (90) days.
- (4) Not issue a new club permit under this chapter if the club, fraternal club, or labor organization does not hold a club permit under this chapter.
- (5) Revoke an existing club permit.

SECTION 34. IC 7.1-3-20-11.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11.5. (a) The commission may issue a three-way permit for the sale of alcoholic beverages, for on-the-licensed-premises consumption only, to the proprietor of a restaurant which is located in a city or town that has a population of less than twenty thousand (20,000), if the applicant meets the following requirements:

- (1) The establishment is the holder of a one-way or a two-way permit.
- (2) The establishment is qualified to hold a three-way permit but for the provisions of IC 7.1-3-22-3.
- (3) ~~The applicant presents to the commission a petition bearing the signatures of two hundred fifty (250) residents of the affected city or town requesting the issuance of the permit to the applicant.~~

(b) A permit that is issued under this section may be transferred.

(c) The annual license fee for a three-way retailer's permit issued

under this section is the same as the fee for a three-way retailer's permit issued under other provisions of this chapter. A person who holds a three-way retailer's permit under this section is not required to pay an annual license fee for any one-way or two-way retailer's permit that the person must hold to maintain eligibility for a three-way retailer's permit under this section.

SECTION 35. IC 7.1-3-20-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. ~~Hotels: General Requirements.~~ (a) In order to be considered a "hotel" within the meaning of this title and to be eligible to receive an appropriate hotel permit under this title, an establishment shall meet the following requirements:

(a) (1) It shall be provided with special space and accommodations where, in consideration of payment, food and lodging are habitually furnished to travelers.

(b) (2) It shall have at least twenty-five (25), adequately furnished and completely separate sleeping rooms with adequate facilities under one (1) continuous roof.

(c) (3) It shall be so disposed that persons usually apply for and receive overnight accommodations in it in the course of usual and regular travel or as a residence. ~~and;~~

(d) (4) It shall operate **either** a:

(A) regular dining room constantly frequented by customers each day; **or**

(B) room in which continental breakfasts and hors d'oeuvres are served in areas designated as dining rooms.

(b) **This subsection applies to a hotel that qualifies under subsection (a)(4)(B). All laws and commission rules regarding legal serving for alcoholic beverages fully apply to the hotel. Rooms that qualify under subsection (a)(4)(B) qualify as rooms under IC 7.1-5-7-11(a)(16). The commission may adopt rules under IC 4-22-2 concerning floor plans of the hotel.**

SECTION 36. IC 7.1-3-20-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. ~~Hotels Outside Corporate Limits.~~ (a) The commission may issue a three-way permit to a hotel situated outside the corporate limits of an incorporated city or town if the establishment meets the following requirements:

(a) (1) It shall be provided with special space and accommodations where, in consideration of payment, food and lodging are habitually furnished to travelers.

(b) (2) It shall have at least ~~fifty (50);~~ **twenty-five (25)** adequately furnished and completely separate sleeping rooms with adequate facilities under one (1) roof.

(c) (3) It shall be so disposed that persons usually apply for and receive overnight accommodations in it in the course of usual and regular travel or as a residence.

(d) (4) It shall operate **either** a:

(A) regular dining room constantly frequented by customers each day; ~~and;~~ **or**

(B) room in which continental breakfasts and hors d'oeuvres are served in areas designated as dining rooms.

(e) (5) It shall be sufficiently served by adequate law enforcement at its premises.

(b) This subsection applies to a hotel that qualifies under subsection (a)(4)(B). All laws and commission rules regarding legal serving for alcoholic beverages fully apply to the hotel. Rooms that qualify under subsection (a)(4)(B) qualify as rooms under IC 7.1-5-7-11(a)(16). The commission may adopt rules under IC 4-22-2 concerning floor plans of the hotel.

SECTION 37. IC 7.1-3-20-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 21. ~~Resort Hotels:~~ (a) In order to be considered a "resort hotel" within the meaning of this title and to be eligible to receive an appropriate resort hotel permit under this title, an establishment shall meet the following requirements:

(a) (1) It shall be constantly patronized during a season of at least three (3) months.

(b) (2) It shall have improvements of a least five thousand dollars (\$5,000), in value, on the premises.

(c) (3) It shall have at least twenty-five (25), adequately furnished and completely separate sleeping rooms, exclusive of any basement rooms, with adequate facilities.

(d) (4) It shall be so disposed that persons usually apply for and receive overnight accommodations in it.

(e) (5) It shall have either a:

(A) regular dining room frequented by customers each day during which the resort hotel is open to the public; or

(B) room in which continental breakfasts and hors d'oeuvres are served in areas designated as dining rooms.

(f) (6) It shall be located on one (1) premises.

(g) (7) It shall be operated by one (1) person, or under one (1) management.

(h) (8) It shall be a permanent structure of at least two (2) stories, exclusive of the basement.

(i) (9) It shall be reasonably fire-proof.

(j) (10) It shall be sufficiently responsible to discharge all of its obligations under the law to its guests and it shall have kept a register of its guests. and,

(k) (11) It shall have been in active operation for a period of three (3) years immediately prior to the filing of the application for a permit.

(b) This subsection applies to a hotel that qualifies under subsection (a)(5)(B). All laws and commission rules regarding legal serving for alcoholic beverages fully apply to the hotel. Rooms that qualify under subsection (a)(5)(B) qualify as rooms under IC 7.1-5-7-11(a)(16). The commission may adopt rules under IC 4-22-2 concerning floor plans of the hotel.

SECTION 38. IC 7.1-3-21-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. ~~Disclosure of Interested Parties:~~ The commission shall not issue an alcoholic beverage wholesaler's permit of any type to a person unless that person has on file with the commission a verified list containing the name and address of each person who is, or will be, financially or beneficially

interested in the permit and the business conducted, or to be conducted, under it. At all times, a change in the list shall be filed by the applicant or permittee with the commission within ten (10) days of the date when the change became effective. The lists, together with any changes, shall be kept on file in the office of the commission and they shall be open to public inspection.

SECTION 39. IC 7.1-3-21-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, "wall" means a wall of a building. The term does not include a boundary wall.

(b) Except as provided in subsection (c), the commission shall not issue a permit for a premises if a wall of the premises is situated within two hundred (200) feet from a wall of a school or church, if no permit has been issued for the premises under the provisions of Acts 1933, Chapter 80.

(c) This subsection applies to a county having a population of more than one hundred eight thousand nine hundred fifty (108,950) but less than one hundred twelve thousand (112,000) the commission shall not issue a permit for a premises if a wall of the premises is situated within two hundred (200) feet from a wall of a school or church unless:

(1) the permit is a beer dealer or wine dealer permit for a grocery store

(2) the main entrance of the grocery store and the main entrance of the school or church face different streets or roads;

(3) there is a physical barrier between the grocery store and the school or church that prevents a person from moving between the two (2) properties; and

(4) a wall of the grocery store is not situated within one hundred (100) feet from a wall of the school or church.

(c) This section does not apply to premises if:

(1) the premises of a grocery store or drug store if:

(A) a wall of the premises is situated within two hundred (200) feet from a wall of a church or school;

(B) the commission receives the written statement of the authorized representative of the church or school stating expressly that the church or school does not object to the issuance of the permit for the premises; and

(C) the commission determines that the church or school does not object to the issuance of the permit for the premises; or

(2) a church or school that applies for a temporary beer or wine permit.

(d) The commission shall base its determination under subsection (c)(1)(C) solely on the written statement of the authorized representative of the church or school.

(e) If the commission does not receive the written statement of the authorized representative of the church or school, the premises of the grocery store or drug store may not obtain the waiver allowed under this subsection.

(f) If the commission determines that the church or school does not object, this section and IC 7.1-3-21-10 do not apply to the

1 **permit premises of the grocery store or drug store on a subsequent**
 2 **renewal or transfer of ownership.**

3 SECTION 40. IC 7.1-3-23-20 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. ~~Revocation for~~
 5 ~~False Verification of Interested Parties:~~ The commission shall deny the
 6 application, or revoke the permit, of a person who:

7 (1) includes on the list of interested parties required to be filed by

8 IC ~~1971~~, 7.1-3-21-8, a:

9 (A) fictitious name; or

10 (B) **a person disqualified under this title from having an**
 11 **interest in an alcoholic beverage permit; or**

12 (2) omits from the list the name of a person whose name should be
 13 on it.

14 The commission shall take the same action if the applicant or permittee
 15 fails to keep the list current as required by that section.

16 SECTION 41. IC 7.1-3-24-3 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. ~~Ordinary Transfers:~~
 18 ~~Restrictions:~~ A transfer authorized by IC ~~1971~~, 7.1-3-24-2 ~~shall be~~
 19 ~~made~~ **section 2 of this chapter is** subject to the following restrictions:

20 ~~(a)~~ (1) It shall be made upon the terms and under the rules and
 21 regulations that the commission may prescribe.

22 ~~(b)~~ (2) The application for the transfer shall conform in respect to
 23 notice and publication and investigation before the local board as
 24 in the case of an original application for a permit. ~~and;~~

25 ~~(c)~~ (3) It shall be subject to the advance payment of the **advance**
 26 **cost fee provided in IC 1971, 7.1-4-1. under IC 7.1-4-4.1-6.**

27 SECTION 42. IC 7.1-3-24-11 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. ~~Surrender of~~
 29 ~~Permits:~~ The administrator or executor of the estate of a deceased
 30 permittee may surrender the permit to the commission and it shall be
 31 canceled. ~~and a refund shall be made by the chairman pro rata for the~~
 32 ~~period of time as yet unexpired on the term of the permit less a~~
 33 ~~deduction of the cost fee provided in IC 1971, 7.1-4-1, to be paid to the~~
 34 ~~chairman:~~ **No part of the fee for the permit shall be refunded.**

35 SECTION 43. IC 7.1-4-4.1 IS ADDED TO THE INDIANA CODE
 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2001]:

38 **Chapter 4.1. Permit Fees**

39 **Sec. 1. The alcohol and tobacco commission shall issue an annual**
 40 **registration of a primary source of supply (as defined in**
 41 **IC 7.1-1-3-32.5) without charge.**

42 **Sec. 2. The fee for a supplemental caterer's permit is five dollars**
 43 **(\$5) per event.**

44 **Sec. 3. The following biennial license fee is imposed for an**
 45 **employee's permit:**

46 (1) **Five dollars (\$5) if the permit is used only to perform**
 47 **volunteer service that benefits a nonprofit organization.**

48 (2) **Twenty dollars (\$20) if subdivision (1) does not apply.**

49 **The term of a biennial employee's license is two (2) years.**

50 **Sec. 4. A biennial license fee of twenty dollars (\$20) is imposed**
 51 **for a salesman's license. The term of a biennial salesman's license**

1 is two (2) years.

2 Sec. 5. (a) This section applies to the following permits:

3 (1) Temporary beer permit.

4 (2) Temporary wine permit.

5 (b) A license fee for a temporary permit is the greater of the
6 following:

7 (1) Two dollars (\$2) per day of operation.

8 (2) The amount per day set by the commission under
9 subsection (c).

10 (c) Subject to any rates or schedules adopted by the commission,
11 the commission may set a higher daily rate for a temporary beer
12 permit under subsection (b)(2) if, in the judgment of the
13 commission, the number of persons likely to be accommodated, or
14 any other facts bearing on the value of the permit warrant the
15 increase. However, the fee may not exceed one thousand dollars
16 (\$1,000) per day.

17 Sec. 6. The advance cost fee for the transfer of an alcoholic
18 beverage permit from:

19 (1) one (1) holder to another holder; or

20 (2) one (1) location to another location;

21 is two hundred fifty dollars (\$250).

22 Sec. 7. The fee for:

23 (1) a letter of extension; and

24 (2) each renewal of a letter of extension;

25 is fifty dollars (\$50) if the need for the letter of extension, or
26 renewal, is occasioned by the act or omission of the permittee. The
27 commission shall waive the fee for a letter of extension, and a
28 renewal, if the need for the letter of extension, or renewal, is
29 occasioned by the act or omission of the commission, a local board,
30 or a third party unrelated to the permittee involved and not
31 employed by the permittee or under the control of the permittee.

32 Sec. 8. The annual license fee for a carrier's alcoholic permit is
33 five dollars (\$5).

34 Sec. 9. (a) This section applies to the following seasonal or annual
35 permits:

36 (1) Beer retailer's permit.

37 (2) Liquor retailer's permit.

38 (3) Wine retailer's permit.

39 (4) One-way permit.

40 (5) Two-way permit.

41 (6) Three-way permit.

42 (7) Airplane beer permit.

43 (8) Airplane liquor permit.

44 (9) Airplane wine permit.

45 (10) Boat beer permit.

46 (11) Boat liquor permit.

47 (12) Boat wine permit.

48 (13) Dining car beer permit.

49 (14) Dining car liquor permit.

50 (15) Dining car wine permit.

51 (16) Hotel seasonal permit.

1 **(17) Supplemental retailer's permit.**

2 **(b) The commission shall charge a single fee for the issuance of**
 3 **any combination of retailer's permits issued for the same location**
 4 **or conveyance. Except as provided in sections 10 and 11 of this**
 5 **chapter, the fee is equal to the sum of the amount determined**
 6 **under subsection (c) and the amount determined under subsection**
 7 **(d).**

8 **(c) An annual permit fee in the following amount is imposed on**
 9 **a retailer:**

10 **(1) Two hundred fifty dollars (\$250), if the retailer serves only**
 11 **beer or only wine.**

12 **(2) Five hundred dollars (\$500), if the retailer serves both beer**
 13 **and wine but no liquor.**

14 **(3) Seven hundred fifty dollars (\$750), if the retailer serves**
 15 **beer, wine, and liquor.**

16 **(d) An additional fee in the following amount is imposed on a**
 17 **retailer:**

18 **(1) Two hundred fifty dollars (\$250), if the retailer under the**
 19 **authority of IC 7.1-3-16.5 sells food and any combination of**
 20 **beer, wine, or liquor on Sunday.**

21 **(2) One thousand five hundred dollars (\$1,500) if the retailer,**
 22 **who is not under the authority of IC 7.1-3-16.5, sells any**
 23 **combination of beer, wine, or liquor on Sunday.**

24 **Sec. 10. The maximum fee that may be imposed for the issuance**
 25 **of annual permits for a fraternal club is two hundred fifty dollars**
 26 **(\$250).**

27 **Sec. 11. The maximum fee that may be imposed for the issuance**
 28 **of annual permits for an airplane, a boat, or a dining car is five**
 29 **hundred dollars (\$500).**

30 **Sec. 12. (a) This section applies to the following permits:**

31 **(1) Beer dealer's permit.**

32 **(2) Liquor dealer's permit.**

33 **(3) Malt dealer's permit.**

34 **(4) Wine dealer's permit.**

35 **(b) The commission shall charge a single fee for the issuance of**
 36 **any combination of dealers' permits issued for the same location.**
 37 **The fee is equal to the sum of the amount determined under**
 38 **subsection (c).**

39 **(c) An annual permit fee in the following amount is imposed on**
 40 **a dealer:**

41 **(1) Two hundred fifty dollars (\$250), if the dealer sells only**
 42 **beer, only liquor, or only wine.**

43 **(2) Five hundred dollars (\$500), if the dealer sells:**

44 **(A) both beer and wine but no liquor;**

45 **(B) both wine and liquor but no beer; or**

46 **(C) both beer and liquor but no wine.**

47 **(3) Seven hundred fifty dollars (\$750), if the dealer sells beer,**
 48 **wine, and liquor.**

49 **Sec. 13. (a) This section applies to the following permits:**

50 **(1) Beer wholesaler's permit.**

51 **(2) Malt wholesaler's permit.**

(3) Liquor wholesaler's permit.

(4) Wine wholesaler's permit.

(b) A permit fee of two thousand dollars (\$2,000) is annually imposed for the issuance of each of the permits described in subsection (a).

Sec. 14. (a) This section applies to the following permits:

(1) Brewer's permit for the manufacture of more than twenty thousand (20,000) barrels of beer in a calendar year.

(2) Distiller's permit.

(3) Malt manufacturer's permit.

(4) Rectifier's permit.

(5) Vintner's permit.

(6) Wine bottler's permit.

(b) A permit fee of two thousand dollars (\$2,000) is annually imposed for the issuance of each permit described in subsection (a).

Sec. 15. The annual fee for a farm winery permit is five hundred dollars (\$500).

Sec. 16. The annual fee for a brewer's permit for the manufacture of not more than twenty thousand (20,000) barrels of beer in a calendar year is five hundred dollars (\$500).

Sec. 17. The annual license fee for a farm winery brandy distiller's permit is two hundred fifty dollars (\$250).

SECTION 44. IC 7.1-4-4.5-3, AS AMENDED BY P.L.201-1999, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. The hard cider excise tax shall be paid by the holder of a vintner's permit, a farm winery permit, a wine wholesaler's permit, **a beer wholesaler's permit**, a dining car wine permit, or a boat wine permit on the hard cider to which the tax is applicable and that is manufactured or imported by the person into this state. However, an item may only be taxed once for hard cider excise tax purposes.

SECTION 45. IC 7.1-4-6-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2.1. (a) The department shall adopt rules ~~and regulations~~ under IC 4-22-2 to govern the assessment and collection of penalties provided in ~~IC 7.1-4-6-2~~ **section 2 of this chapter**.

(b) **The commission may adopt rules under IC 4-22-2 to coordinate compliance with the laws, rules, and administrative policies governing the assessment and collection of sales taxes.**

SECTION 46. IC 7.1-4-7-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) Except as provided in subsection (b), the chairman and the department shall deposit the money collected under sections 1, 2, and 3 of this chapter daily with the treasurer of state, and not later than the fifth day of the following month shall cover them into the general fund of state for general fund purposes.

(b) The chairman and the department shall deposit the money collected under **IC 7.1-2-5-3, IC 7.1-2-5-8, IC 7.1-3-17.5, IC 7.1-3-17.7, IC 7.1-3-22-9, ~~IC 7.1-4-1-6 and IC 7.1-4-1-31.1~~ IC 7.1-4-4.1-5** daily with the treasurer of state, and not later than the fifth day of the following month shall cover them into the enforcement and administration fund established under IC 7.1-4-10-1.

SECTION 47. IC 7.1-4-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. ~~Enforcement Officer's Retirement Fund~~. The sums realized from the collection of the ~~annual~~ **biennial** license fees imposed by ~~IC 1971, 7.1-4-1-38,~~ **IC 7.1-4-4.1-3** shall be paid first, and are hereby appropriated, to the state excise police retirement fund. The board of trustees of the public employees' retirement fund shall determine the amount to be appropriated. The amount to be appropriated shall be sufficient, when added to the funds already held by the retirement fund, for the payment of benefits to enforcement officers to pay the aggregate liability of the retirement fund for the payment of benefits and administration costs to the end of the fiscal year. The appropriation of funds shall be credited to the state excise police retirement fund in equal installments at the end of each month during each fiscal year.

SECTION 48. IC 7.1-4-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. ~~Reversion of Funds~~. The sums realized from the collection of the ~~annual~~ **biennial** license fees imposed by ~~IC 1971, 7.1-4-1-38,~~ **IC 7.1-4-4.1-3** and not appropriated by ~~IC 1971, 7.1-4-11-1,~~ **section 1 of this chapter** are hereby appropriated to the enforcement and administration fund of the commission.

SECTION 49. IC 7.1-5-1-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 9.5. (a) An in state or an out of state vintner, distiller, brewer, rectifier, or importer that holds a basic permit from the federal Bureau of Alcohol, Tobacco, and Firearms who knowingly violates IC 7.1-5-11-1.5 commits a Class A misdemeanor.

(b) A person who is not described in subsection (a) who knowingly violates IC 7.1-5-11-1.5 commits a Class D felony.

(c) If the chairman of the ~~alcoholic beverage~~ **alcohol and tobacco** commission or the attorney general determines that a vintner, distiller, brewer, rectifier, or importer that holds a basic permit from the federal Bureau of Alcohol, Tobacco, and Firearms has made an illegal shipment of an alcoholic beverage to consumers in Indiana, the chairman shall notify the federal Bureau of Alcohol, Tobacco, and Firearms in writing and by certified mail of the official determination that state law has been violated and request the federal bureau to take appropriate action.

SECTION 50. IC 7.1-5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. ~~Refilling of Bottle Prohibited~~. (a) It is unlawful for a person to:

(1) refill a bottle or container, in whole or in part, with an alcoholic beverage; **or**

(2) **knowingly possess a bottle or container that has been refilled, in whole or in part, with an alcoholic beverage;**
after the container of liquor has been emptied in whole or in part.

(b) The provisions of this section ~~shall do~~ not apply to the necessary refilling of a container by a person holding a permit that authorizes him to manufacture, rectify, or bottle liquor.

SECTION 51. IC 7.1-5-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. ~~Discrimination in~~

~~Sales Prohibited.~~ (a) It is unlawful for a permittee in a sale or contract to sell alcoholic beverages to discriminate between purchasers by granting a price, discount, allowance, or service charge which is not available to all purchasers at the same time. However, this section does not authorize or require a permittee to sell to a person to whom he is not authorized to sell under this title.

(b) **A premises that operates at least two (2) restaurants that are separate and distinct from each other on the same premises may provide for a different schedule of prices in each restaurant if each restaurant conforms to all other laws and rules of the commission regarding pricing and price discrimination in its separate and distinct areas.**

SECTION 52. IC 7.1-5-7-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. ~~Employment of Minors Prohibited.~~ **Except as provided in section 13 of this chapter,** it is a Class B misdemeanor for a person to employ a minor in or about a place where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, in a capacity which requires or allows the minor to sell, furnish, or otherwise deal in alcoholic beverages.

SECTION 53. IC 7.1-5-7-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 13. ~~Employment of Minors: Exceptions.~~ **The provisions of IC 1971, 7.1-5-7-12, shall (a) Section 12 of this chapter does not prohibit the following:**

(1) **The employment of a person at least eighteen (18) years of age or older but less than twenty-one (21) years of age** on or about licensed premises where alcoholic beverages are sold, furnished, or given away for consumption either on or off the licensed premises, for a purpose other than:

(A) selling;

(B) furnishing, **other than serving;**

(C) consuming; or

(D) otherwise dealing in;

alcoholic beverages. ~~Not shall the provisions of IC 1971, 7.1-5-7-12, prohibit~~

(2) **A person at least eighteen (18) years of age or older but less than twenty-one (21) years of age** from ringing up a sale of alcoholic beverages in the course of ~~his~~ **the person's** employment.

(3) **A person at least nineteen (19) years of age but less than twenty-one (21) years of age who:**

(A) **has successfully completed a server training program approved by the commission before applying for an employee permit; and**

(B) **serves alcoholic beverages in a dining area or family room of a restaurant or hotel:**

(i) **in the course of a person's employment as a waiter, waitress, or server; and**

(ii) **under the supervision of a person who is at least twenty-one (21) years of age, is present at the restaurant or hotel, and has successfully completed a server training program approved by the commission.**

This subdivision does not allow a person at least nineteen (19) years of age but less than twenty-one (21) years of age to be a bartender.

(b) The commission may adopt rules under IC 4-22-2 to:

(1) create a server training program;

(2) outsource the server training program and licensing; and

(3) establish fees under this section.

SECTION 54. IC 7.1-5-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. ~~Hindering Enforcement of Title Prohibited~~. It is a Class C misdemeanor for a person to recklessly hinder, obstruct, interfere with, or prevent the observance or enforcement of **any of the following**:

(1) A provision of this title.

(2) A rule or regulation of the commission adopted in the administration of this title.

SECTION 55. IC 7.1-5-8-4, AS AMENDED BY P.L.136-2000, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) It is unlawful for a person who owns or operates a private or public restaurant or place of public or private entertainment to permit another person to come into the establishment with an alcoholic beverage for sale or gift, or for consumption in the establishment by that person or another, or to serve a setup to a person who comes into the establishment. However, the provisions of this section shall not apply to the following:

(1) A private room hired by a guest of a bona fide club or hotel that holds a retail permit.

(2) A facility that is used in connection with the operation of a paved track ~~of more than two (2) miles in length~~ that is used primarily in the sport of auto racing.

(b) An establishment operated in violation of this section is declared to be a public nuisance and subject to abatement as other public nuisances are abated under the provisions of this title.

SECTION 56. IC 7.1-5-8-5, AS AMENDED BY P.L.136-2000, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) This section does not apply to a person who, on or about a licensed premises, carries, conveys, or consumes beer or wine:

(1) described in IC 7.1-1-2-3(a)(4); and

(2) not sold or offered for sale.

(b) This section does not apply to a person at a facility that is used in connection with the operation of a ~~paved track more than two (2) miles in length~~ that is used primarily in the sport of auto racing.

(c) It is a Class C misdemeanor for a person, for the person's own use, to knowingly carry on, convey to, or consume on or about the licensed premises of a permittee, an alcoholic beverage that was not then and there purchased from that permittee.

SECTION 57. IC 7.1-6-2-6, AS ADDED BY P.L.177-1999, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) The youth tobacco education and enforcement fund is established. The fund shall be administered by the commission.

(b) Expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) Money in the fund shall be used for the following purposes:

(1) ~~One-third (1/3) of the money in the fund~~ For youth smoking prevention education. The commission may contract with the state department of health or the office of the secretary of family and social services for youth smoking prevention education programs.

(2) ~~One-third (1/3) of the money in the fund~~ For education and training of retailers who sell tobacco products. The commission may contract with education and training programs of the office of the secretary of family and social services, the division of mental health, enforcement officers, or a program approved by the commission.

(3) ~~One-third (1/3) of the money in the fund to~~ For the commission, for enforcement of youth tobacco laws.

SECTION 58. IC 7.1-6-2-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 8. (a) This section applies whenever a civil penalty payable to the youth tobacco education and enforcement fund is imposed.**

(b) The person liable for the civil penalty shall pay the full amount of the civil penalty to the commission within thirty (30) days after final judgment.

(c) A person who fails to pay a civil penalty within the time specified in subsection (b) is liable for a late penalty equal to the greater of the following:

(1) Twenty-five percent (25%) of the amount of the civil penalty imposed under IC 35-46-1.

(2) The lesser of the following:

(A) Twenty-five dollars (\$25) multiplied by the number of days that have elapsed after the date that the civil penalty was imposed by a court.

(B) Five thousand dollars (\$5,000).

(d) A person who fails to pay a civil penalty within the time specified in subsection (b) is liable for interest on the unpaid amount of the:

(1) civil penalty imposed by a court; and

(2) late penalty imposed under this section.

The interest rate is the adjusted rate of interest as determined under IC 6-8.1-10-1 payable from the date that payment of the amount was due.

(e) A person who fails to pay a civil penalty within the time specified in subsection (b) is liable for the reasonable documented out-of-pocket expenses incurred in pursuing collection efforts.

(f) The commission shall collect the following:

(1) Civil penalties imposed by a court.

(2) Late penalties imposed under this section.

(3) Interest imposed under this section.

(4) Reasonable documented out-of-pocket expenses incurred in pursuing collection efforts.

(g) Late penalties and interest imposed under this section shall be deposited in the youth tobacco education and enforcement fund established by section 6 of this chapter.

SECTION 59. IC 7.1-5-9-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. **Except as provided in IC 7.1-3-3-4**, an applicant for a beer wholesaler's permit shall have no interest in the following:

(1) A permit to manufacture or to sell at retail alcoholic beverages of any kind.

(2) Any other permit to wholesale alcoholic beverages.

(3) Through stock ownership or otherwise, in a partnership, limited liability company, or corporation that holds:

(A) a permit to manufacture or to sell at retail alcoholic beverages of any kind; or

(B) any other permit to wholesale alcoholic beverages of any kind.

SECTION 60. IC 10-1-10-16, AS AMENDED BY P.L.117-1999, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. (a) The committee consists of ten (10) members appointed by the superintendent. Each of the following user agencies shall be represented by one (1) committee member:

(1) State police department.

(2) Indiana department of transportation.

(3) State emergency management agency.

(4) Department of natural resources.

(5) ~~Alcoholic beverage~~ **Alcohol and tobacco** commission.

(6) Department of state revenue.

(7) Indiana department of environmental management.

(8) Military department of the state of Indiana.

(9) Department of correction.

(10) Department of administration.

(b) A director of an agency described in subsection (a)(2) through (a)(10) shall recommend a person to the superintendent to serve as a committee member.

(c) The superintendent shall fill any vacancies on the committee.

(d) A committee member serves until the earlier of the following:

(1) The member is removed by the superintendent.

(2) The date the member ceases to be employed by the agency the member represents on the committee.

SECTION 61. IC 24-3-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. Unless the context in this chapter requires otherwise, the term:

(a) "Cigarette" shall mean and include any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material; provided the definition in this paragraph shall not

1 be construed to include cigars.

2 (b) "Person" or the term "company", used in this chapter
3 interchangeably, means and includes any individual, assignee, receiver,
4 commissioner, fiduciary, trustee, executor, administrator, institution,
5 bank, consignee, firm, partnership, limited liability company, joint
6 vendor, pool, syndicate, bureau, association, cooperative association,
7 society, club, fraternity, sorority, lodge, corporation, municipal
8 corporation, or other political subdivision of the state engaged in
9 private or proprietary activities or business, estate, trust, or any other
10 group or combination acting as a unit, and the plural as well as the
11 singular number, unless the intention to give a more limited meaning
12 is disclosed by the context.

13 (c) "Distributor" shall mean and include every person who sells,
14 barter, exchanges, or distributes cigarettes in the state of Indiana to
15 retail dealers for the purpose of resale, or who purchases for resale
16 cigarettes from a manufacturer of cigarettes or from a wholesaler,
17 jobber, or distributor outside the state of Indiana who is not a
18 distributor holding a registration certificate issued under the provisions
19 of IC 6-7-1.

20 (d) "Retailer" shall mean every person, other than a distributor, who
21 purchases, sells, offers for sale, or distributes cigarettes to consumers
22 or to any person for any purpose other than resale, irrespective of
23 quantity or amount or the number of sales.

24 (e) "Sell at retail", "sale at retail", and "retail sales" shall mean and
25 include any transfer of title to cigarettes for a valuable consideration
26 made in the ordinary course of trade or usual conduct of the seller's
27 business to the purchaser for consummation or use.

28 (f) "Sell at wholesale", "sale at wholesale", and "wholesale sales"
29 shall mean and include any transfer of title to cigarettes for a valuable
30 consideration made in the ordinary course of trade or usual conduct of
31 a distributor's business.

32 (g) "Basic cost of cigarettes" shall mean the invoice cost of cigarettes
33 to the retailer or distributor, as the case may be, or the replacement cost
34 of cigarettes to the retailer or distributor, as the case may be, within
35 thirty (30) days prior to the date of sale, in the quantity last purchased,
36 whichever is the lower, less all trade discounts and customary
37 discounts for cash, plus the cost at full face value of any stamps which
38 may be required by IC 6-7-1, if not included by the manufacturer in his
39 selling price to the distributor.

40 (h) "Department" shall mean the ~~Indiana alcoholic beverage alcohol~~
41 **and tobacco** commission, its duly authorized assistants and employees,
42 and any other board, commission, agency, or other entity of the state of
43 Indiana which may be designated by the governor to administer and
44 enforce the provisions of this chapter; and the governor is hereby
45 vested with power and authority to designate and to transfer to another
46 department, board, commission, agency, or other entity of the state of
47 Indiana the administration and enforcement of the provisions of this
48 chapter.

49 (i) "Cost to the retailer" shall mean the basic cost of cigarettes to the
50 retailer, plus the cost of doing business by the retailer as evidenced by
51 the standards and methods of accounting regularly employed by him in

his allocation of overhead costs and expenses paid or incurred and must include without limitation labor (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising; however, any retailer who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer, but also, in whole or in part, discounts ordinarily allowed on purchases by a distributor shall, in determining costs to the retailer pursuant to this section, add the cost to the distributor, as defined in paragraph (j), to the basic cost of cigarettes to said retailer as well as the cost of doing business by the retailer. In the absence of proof of a lesser or higher cost of doing business by the retailer making the sale, the cost of doing business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer. In the absence of proof of a lesser or higher cost of doing business, the cost of doing business by the retailer, who in connection with the retailer's purchase receives not only the discounts ordinarily allowed upon purchases by a retailer, but also, in whole or in part, the discounts ordinarily allowed upon purchases by a distributor, shall be presumed to be eight percent (8%) of the sum of the basic cost of cigarettes plus the cost of doing business by the distributor.

(j) "Cost to the distributor" shall mean the basic cost of cigarettes to the distributor, plus the cost of doing business by the distributor as evidenced by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses, paid or incurred, and must include without limitation labor costs (including salaries of executives and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. In the absence of proof of a lesser or higher cost of doing business by the distributor making the sale, the cost of doing business by the wholesaler shall be presumed to be four percent (4%) of the basic cost of cigarettes to the distributor, plus cartage to the retail outlet, if performed or paid for by the distributor, which cartage cost, in the absence of proof of a lesser or higher cost, shall be deemed to be one-half of one percent (0.5%) of the basic cost of cigarettes to the distributor.

SECTION 62. IC 34-30-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 17. IC 7.1-2-3-30 (Concerning members, officers, and employees of the ~~Indiana alcoholic beverage~~ **alcohol and tobacco** commission).

SECTION 63. IC 34-30-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. IC 7.1-2-8-2 (Concerning the ~~alcoholic beverage~~ **alcohol and tobacco** commission, its chairman and chairman pro tempore, and the state for claim arising from collection of money under alcoholic beverage laws).

SECTION 64. IC 35-41-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 17. (a) "Law enforcement officer" means:

- (1) a police officer, sheriff, constable, marshal, or prosecuting attorney;
- (2) a deputy of any of those persons;

- (3) an investigator for a prosecuting attorney;
- (4) a conservation officer; or
- (5) an enforcement officer of the ~~alcoholic beverage~~ **alcohol and tobacco** commission.

(b) "Federal enforcement officer" means any of the following:

- (1) A Federal Bureau of Investigation special agent.
- (2) A United States Marshals Service marshal or deputy.
- (3) A United States Secret Service special agent.
- (4) A United States Fish and Wildlife Service special agent.
- (5) A United States Drug Enforcement Agency agent.
- (6) A Bureau of Alcohol, Tobacco, and Firearms agent.
- (7) A United States Forest Service law enforcement officer.
- (8) A United States Department of Defense police officer or criminal investigator.
- (9) A United States Customs Service agent.
- (10) A United States Postal Service investigator.
- (11) A National Park Service law enforcement commissioned ranger.

(12) United States Department of Agriculture, Office of Inspector General special agent.

SECTION 65. IC 35-46-1-10, AS AMENDED BY SEA 174-2001, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 10. (a) A person who knowingly:

- (1) sells or distributes tobacco to a person less than eighteen (18) years of age; or**
- (2) purchases tobacco for delivery to another person who is less than eighteen (18) years of age;**

commits a Class C infraction. For a sale to take place under this section, the buyer must pay the seller for the tobacco product.

(b) It is not a defense that the person to whom the tobacco was sold or distributed did not smoke, chew, or otherwise consume the tobacco.

(c) The following defenses are available to a person accused of selling or distributing tobacco to a person who is less than eighteen (18) years of age:

- (1) The buyer or recipient produced a driver's license bearing the purchaser's or recipient's photograph, showing that the purchaser or recipient was of legal age to make the purchase.
- (2) The buyer or recipient produced a photographic identification card issued under IC 9-24-16-1, or a similar card issued under the laws of another state or the federal government, showing that the purchaser or recipient was of legal age to make the purchase.
- (3) The appearance of the purchaser or recipient was such that an ordinary prudent person would believe that the purchaser or recipient was not less than the age that complies with regulations promulgated by the federal Food and Drug Administration.

(d) It is a defense that the accused person sold or delivered the tobacco to a person who acted in the ordinary course of employment or a business concerning tobacco:

- (1) agriculture;
- (2) processing;
- (3) transporting;

(4) wholesaling; or

(5) retailing.

(e) As used in this section, "distribute" means to give tobacco to another person as a means of promoting, advertising, or marketing the tobacco to the general public.

(f) Unless a person buys or receives tobacco under the direction of a law enforcement officer as part of an enforcement action, a person who sells or distributes tobacco is not liable for a violation of this section unless the person less than eighteen (18) years of age who bought or received the tobacco is issued a citation or summons under section 10.5 of this chapter.

(g) Notwithstanding IC 34-28-5-4(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 66. IC 35-46-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) A tobacco vending machine that is located in a public place must bear a conspicuous notice: ~~reading~~

(1) that reads as follows, with the capitalization indicated: "If you are under 18 years of age, YOU ARE FORBIDDEN by Indiana law to buy tobacco from this machine."; **or**

(2) that:

(A) conveys a message substantially similar to the message described in subdivision (1); and

(B) is formatted with words and in a form authorized under the rules adopted by the alcohol and tobacco commission.

(b) A person who owns or has control over a tobacco vending machine in a public place and who:

(1) fails to post the notice required by subsection (a) on his vending machine; or

(2) fails to replace the notice within one (1) month after it is removed or defaced;

commits a Class C infraction.

(c) An establishment selling tobacco at retail shall post and maintain in a conspicuous place a sign, printed in letters at least one-half (1/2) inch high, reading as follows: "The sale of tobacco to persons under 18 years of age is forbidden by Indiana law.

(d) A person who:

(1) owns or has control over an establishment selling tobacco at retail; and

(2) fails to post and maintain the sign required by subsection (c); commits a Class C infraction.

SECTION 67. IC 35-46-1-11.3, AS AMENDED BY SEA 174-2001, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11.3. (a) This section does not apply to advertisements that are less than fourteen (14) square feet and posted:

(1) at street level in the window or on the exterior of a business property or establishment where tobacco products are manufactured, distributed, or sold; or

(2) on vehicles.

(b) This section does not apply to advertisements that are placed

on a fixed, permanent marquee sign that is located on the retailer's property where tobacco products are sold.

(c) ~~After May 13, 1999~~, A person may not advertise or cause to be advertised tobacco products on a billboard or an outdoor advertisement ~~that where the tobacco advertising~~ occupies an area that exceeds fourteen (14) square feet. ~~including any advertisement that functions as a segment of a larger advertising unit or series.~~ **The alcohol and tobacco commission may adopt rules under IC 4-22-2 to determine how to measure the tobacco product advertising on a sign that contains both tobacco product advertising and advertising that is not tobacco related. The rules may not allow the frame of the sign or other structural parts that only serve to support the sign to be included in the tobacco advertising measurement.**

~~(c)~~ (d) A person who violates this section commits a Class C infraction. An advertisement that is in violation of this section must be removed not more than ten (10) days after a citation or summons has been issued. Notwithstanding IC 34-28-5-4(c), if an advertisement that is in violation of this section is not removed not more than ten (10) days after a citation or summons has been issued, a civil judgment for an infraction committed under this section must include a civil penalty of one hundred dollars (\$100) for each day that the advertisement was in violation of this section.

~~(d)~~ (e) Notwithstanding IC 34-28-5-5(c), civil penalties collected under this section must be deposited in the youth tobacco education and enforcement fund (IC 7.1-6-2-6).

SECTION 68. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2001]: IC 7.1-2-4-4; IC 7.1-3-4-5; IC 7.1-3-10-12; IC 7.1-4-1; IC 7.1-4-11-3.

SECTION 69. [EFFECTIVE JULY 1, 2001] (a) **After June 30, 2001, a reference in any law, rule, contract, or other document or record to the alcoholic beverage commission, the Indiana alcoholic beverage commission, or the alcoholic beverage commission of Indiana shall be treated as a reference to the alcohol and tobacco commission.**

(b) **On July 1, 2001, the property and obligations of the alcoholic beverage commission, the Indiana alcoholic beverage commission, or the alcoholic beverage commission of Indiana are transferred to the alcohol and tobacco commission.**

(c) **An action taken by the alcoholic beverage commission, the Indiana alcoholic beverage commission, or the alcoholic beverage commission of Indiana before July 1, 2001, shall be treated after June 30, 2001, as if it were originally taken by the alcohol and tobacco commission.**

(d) **IC 7.1-3-20-18, IC 7.1-3-20-20, and IC 7.1-3-20-21, all as amended by this act, supersede 905 IAC 1-41-2(c), as effective on January 1, 2001.**

(e) **IC 7.1-3-1-28, as added by this act, and IC 7.1-3-1-5.5, IC 7.1-3-1-5.6, and IC 7.1-3-20-11.5, all as amended by this act, apply only to applications submitted after June 30, 2001. Applicants who submit an application before July 1, 2001, must comply with IC 7.1-3-1-5.5, IC 7.1-3-1-5.6, or IC 7.1-3-20-11.5, as**

1 appropriate, as the provision was effective at the time the
 2 application was submitted. The alcohol and tobacco commission
 3 may adopt emergency rules to implement IC 7.1-3-1-28, as added
 4 by this act, in the manner provided for the adoption of emergency
 5 rules under IC 4-22-2-37.1. An emergency rule adopted under this
 6 SECTION expires on the earlier of the date that the alcohol and
 7 tobacco commission adopts permanent rules under IC 4-22-2 to
 8 replace the emergency rules or July 1, 2003.

9 (f) Notwithstanding IC 7.1-6-2-8, as added by this act, a person
 10 may pay a civil penalty:

11 (1) to which IC 7.1-6-2-8, as added by this act, applies; and

12 (2) that was imposed by a court before July 1, 2001;
 13 before August 1, 2001, without the imposition of a late payment
 14 penalty or interest under IC 7.1-6-2-8, as added by this act. After
 15 July 30, 2001, late payment penalties and interest shall be added to
 16 the civil penalty as if IC 7.1-6-2-8, as added by this act, were in
 17 effect on the date that the civil penalty was imposed.

18 (g) A fee imposed under IC 7.1-4-4.1, as added by this act, applies
 19 only to permit applications filed after June 30, 2001. The initial
 20 advance cost fee under IC 7.1-4-4.1-6, as added by this act, is the
 21 advance cost fee in effect on June 30, 2001.

22 (h) Notwithstanding IC 7.1-5-7-13, as amended by this act, not
 23 later than July 1, 2002, the alcohol and tobacco commission shall
 24 adopt the rules required by IC 7.1-5-7-13(b)(1), as amended by this
 25 act.

26 SECTION 70. An emergency is declared for this act.

(Reference is to EHB 1585 as reprinted April 10, 2001.)

Conference Committee Report
on
Engrossed House Bill 1585

Signed by:

Representative Kuzman
Chairperson

Senator Wyss

Representative Alderman

Senator Lanane

House Conferees

Senate Conferees